

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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*In re* ROBBINS, Minors.

UNPUBLISHED

July 30, 2019

No. 347205

St. Clair Circuit Court

Family Division

LC No. 17-000363-NA

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Before: GADOLA, P.J., and SERVITTO and REDFORD, JJ.

PER CURIAM.

Respondent appeals as of right the order terminating his parental rights to his minor children, CR, GR, and OR, under MCL 712A.19b(3)(c)(i) (conditions leading to adjudication continue to exist) and (g) (failure to provide proper care and custody). We affirm.

**I. BACKGROUND**

The children were removed because their parents failed to properly supervise them, and the children were present during a domestic violence incident between the parents which put them in imminent risk of harm. Petitioner alleged that: (1) the parents failed to properly supervise the children, (2) the parents neglected the children, (3) the parents had ongoing substance abuse issues, and (4) the parents failed to protect the children from threatened harm of domestic violence.

Respondent admitted to Child Protective Services (“CPS”) that he assaulted the children’s mother in front of them. Respondent was later convicted of domestic violence and sentenced to one year of probation. He also was convicted of operating while intoxicated (“OWI”) which resulted in his incarceration from September 2018 to October 2018. Because of the OWI conviction, respondent violated the terms of his probation. Respondent also violated his probation by having contact with the children’s mother. During the pendency of this case, respondent tested positive for marijuana 14 times, most recently during August 2018. While respondent attended all but one of his parenting time visits, he failed to develop parenting skills that enabled him to supervise all three children at the same time. Respondent maintained employment, but he lacked independent housing.

After finding that statutory grounds existed for termination of respondent's parental rights, the trial court found that termination served the children's best interests. The trial court summarized its findings and conclusions as follows:

As to the best interest of the minor child, the factors the Court should consider on those is [sic] the child's bond with a parent. Well, there's been testimony with regard to [CR] having a bond with [respondent]. No testimony as to the other two children. And, as I indicated, the bond is—although [CR] certainly wants the attention of his father, he has to act out in order to get it. The parenting ability, well, I've already addressed the parenting ability, that's what led to the removal of the children to begin with and hasn't changed. He has no parenting ability and no ability to keep these children safe, to attend to their needs on a regular basis with all three of them together. The child's need for permanency, the oldest child here is five-years-old and the other two, are, of course, younger. They need permanency, they need stability especially there's testimony here that [CR] needs a structured home environment and the father has been unable to provide that. The advantages of a foster home over a parent's home, clearly the parent's home does not have any advantages, in the foster home the children are doing well in that environment. The parent's history of domestic violence, well, there was a history of domestic violence with the mother in this case. The father was to not have any contact with her as part of his probation, he violated those terms and he ended up going to jail as part of that. The—his compliance with case service plan, he did comply with most of it but he does not comply with the orders of the Court, whether it be in his probation terms or in this Court's order with regard to his contact with [the children's mother]. He tries to hide his violations of those terms. And, frankly the age of the children allows them to be highly able to be adopted. So, the issue of permanency needs to be considered here particularly given [respondent]'s continual violation of the law that exposes him to incarceration from time to time.

## II. STATUTORY GROUNDS

Respondent argues that petitioner failed to prove by clear and convincing evidence any statutory grounds for the termination of his parental rights. We disagree.

"This Court reviews for clear error the trial court's factual findings and ultimate determinations on the statutory grounds for termination. The trial court's factual findings are clearly erroneous if the evidence supports them, but [this Court is] definitely and firmly convinced that it made a mistake." *In re White*, 303 Mich App 701, 709-710; 846 NW2d 61 (2014). "A court may terminate a respondent's parental rights if one or more of the statutory grounds for termination listed in MCL 712A.19b(3) have been proven by clear and convincing evidence." *In re Olive/Metts*, 297 Mich App 35, 40; 823 NW2d 144 (2012).

MCL 712A.19b(3)(c)(i) provides:

(3) The court may terminate a parent's parental rights to a child if the court finds, by clear and convincing evidence . . .

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(c) The parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order, and the court, by clear and convincing evidence, finds . . .

(i) The conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age.

In this case, clear and convincing evidence supported the termination of respondent's parental rights under MCL 712A.19b(3)(c)(i) because more than 182 days elapsed after the issuance of an initial dispositional order on November 9, 2017, and the date of the termination hearing on December 5, 2018, and the conditions that led to the adjudication continued to exist with no reasonable likelihood that they would be rectified within a reasonable time considering the children's ages. The record reflects that the children were removed because of respondent's failure to supervise them, respondent's substance abuse, and his commission of domestic violence against the children's mother. Respondent father, despite engaging in services, failed to rectify the conditions that led to the adjudication.

Regarding respondent's failure to supervise, the record reflects that he could not supervise all three children at the same time. He admitted that he sometimes had issues supervising all three of them. Katie Janisse, the clinician for CR and GR, observed respondent's parenting time visits in December 2017 and March 2018. She concluded that respondent had an issue with maintaining appropriate supervision for all three of them and lacked the ability to recognize their nonverbal cues. Respondent could supervise one child at a time; however, Janisse became concerned with the other children's safety. She observed the other children put things in their mouths or climb on dangerous things, but respondent failed to notice their conduct and to take steps to ensure their safety. Janisse concluded that respondent did better with parenting when he had help and he only made small improvements from December 2017 to March 2018 when he was receiving additional services. Amber Jacobs, from the Department of Health and Human Services (DHHS), observed the same inattention and inability to care for all three children. She reported that respondent struggled to provide attention to the children and could only focus on one child at a time. In July 2018, Jacobs noticed that respondent's ability to appropriately monitor the children suffered a "gradual regression." For example, respondent failed to notice GR leave during a park visit; and during a McDonald's visit, OR left the play area multiple times without respondent noticing.

The record also reflects that respondent failed to successfully overcome his substance abuse problem. During the pendency of this case, respondent tested positive 14 times for marijuana and had missed 24 drug screens, all of which were deemed positive. Respondent excused his missed drug screens on the grounds that he worked midnights and would not wake up or did not have transportation. Jacobs concluded that respondent failed to accept that he had a substance abuse problem because he minimized his drug use. The record indicates that respondent stopped going to the substance abuse groups because he "was just trying to take some time to relax." Respondent's probation officer reported to Jacobs that on August 12, 2018, the police arrested respondent for an OWI. When Jacobs asked respondent if he needed to tell her

anything, respondent failed to mention his OWI until Jacobs specifically confronted him. The record also establishes that after respondent's conviction of domestic violence and his sentence to one year of probation, respondent violated his probation by having contact with the children's mother. Further, because of domestic violence, the children's mother obtained a PPO against respondent, but he violated that by having contact with her.

Clear and convincing evidence established a statutory ground for termination of respondent's parental rights to the children under MCL 712A.19b(3)(c)(i). Therefore, the trial court did not err by finding that statutory grounds existed for terminating respondent's parental rights.

### III. BEST INTERESTS

Respondent also argues that the trial court erred by finding that the termination of his parental rights served the children's best interests. We disagree.

Once a trial court finds that a statutory ground for termination has been established by clear and convincing evidence it must terminate parental rights if it finds that a preponderance of the evidence on the whole record establishes that termination serves the children's best interests. *In re White*, 303 Mich App at 713. "We review for clear error the trial court's determination regarding the children's best interests." *Id.*

Trial courts may consider a number of factors when determining whether termination of a respondent's parental rights serves the children's best interests, including,

the child's bond to the parent, the parent's parenting ability, the child's need for permanency, stability, and finality, and the advantages of a foster home over the parent's home. The trial court may also consider a parent's history of domestic violence, the parent's compliance with his or her case service plan, the parent's visitation history with the child, the children's wellbeing while in care, and the possibility of adoption. [*Id.* at 713-714 (quotation marks and citations omitted).]

In this case, the trial court examined the record and considered the applicable best-interest factors. The record reflects that a preponderance of the evidence supported the trial court's determination that the termination of respondent's parental rights served the children's best interests. CR had a bond with respondent but exhibited inappropriate attention-seeking behaviors. Once visitation with respondent stopped, CR's sleep habits, acceptance of being told no, and ability to follow directions all improved. Respondent lacked a bond with either of the other two children. This factor favored termination.

Respondent also failed to show that he could appropriately parent the children. He lacked the ability to supervise all three children at the same time. Although respondent regularly attended parenting time visits when not incarcerated, he exhibited frustration with the children and needed to redirect them multiple times for the same behaviors. While respondent engaged with one child, the other children jumped around, ran around, or climbed on furniture. The record reflects that respondent lacked and never developed the ability to attend to the children and keep them safe from harm. This factor favored termination.

The record indicates that respondent failed to successfully treat his drug abuse problem and continued to engage in drug use with little regard for his need to overcome his problem to enable him to parent his children. Respondent failed to take responsibility for his problem which resulted in multiple failed and unexcused missed drug screens. Evidence also established that respondent lacked the ability to provide a stable environment for the children. Respondent became incarcerated at different periods throughout this case and he continued to have legal problems that made him unavailable to parent the children. The record reflects that respondent also had a history of domestic violence with the children's mother. On September 20, 2017, the children were present during a domestic violence incident between the parents during which respondent punched, slapped, and kicked the children's mother. That incident led to respondent's conviction of domestic violence. The record does not indicate that respondent progressed or overcame his domestic violence problem. These factors favored termination.

The record also reflects that the children needed permanency, stability, and finality. Respondent failed to provide the children a permanent and stable home environment. Respondent's incarceration at different periods throughout this case separated him from the children. Respondent was evicted from his home when he went to jail, and after his release he lacked housing and went back and forth between his parents' homes. Additionally, the evidence established that the children, and particularly CR, all needed a structured home environment, but respondent could not provide one because of his substance abuse and lack of housing. The children's foster home, however, provided them stability and they improved while in foster care. GR progressed from the care provided by the foster mother who met GR's needs. In contrast, respondent lacked and failed to develop the ability to recognize the children's needs. This factor favored termination.

Further, respondent failed to completely comply with his case service plan and court-ordered services. He was dismissed from counseling for noncompliance because of missed appointments. Respondent excused his failure to follow through with his court-ordered counseling because he considered it hard for him to talk to people. Respondent failed to take personal responsibility to overcome his problems and develop the ability to successfully parent his children despite the numerous services provided to him to help reunite him with the children. All of the best-interest factors favored termination.

A preponderance of the evidence in the entire record supported the trial court's determination that termination of respondent's parental rights served the children's best interests. Accordingly, the trial court did not err by terminating his parental rights.

Affirmed.

/s/ Michael F. Gadola  
/s/ Deborah A. Servitto  
/s/ James Robert Redford